

# **Carver Endowment for International Peace**

DIVISION OF INTERNATIONAL LAW

Pamphlet No. 4

## **THE HAGUE CONVENTIONS OF 1899 (I) AND 1907 (II) FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES**

PUBLISHED BY THE ENDOWMENT

WASHINGTON, D. C.

1915



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## Preface

In view of the very great interest at the present time in the Conventions and signed Declarations of the First and Second Hague Conferences, and particularly because of the need of accurate information as to ratifications of and adhesions to the Conventions and Declarations relating to war, the Endowment has prepared a series of pamphlets in order that the public may learn from reliable sources the status of these international agreements and the extent to which the Powers now at war are bound by their provisions.

The first pamphlet of this series (No. 3 of the pamphlet series of the Division of International Law) contains the respective Tables of Signatures, Ratifications, Adhesions and Reservations of the Conventions and Declarations of the two Conferences. The compilation has been made from official sources, and the tables have been certified as accurate by the Department of State of the United States. In all cases the reservations contained in the *procès-verbaux*, but only referred to in the official tables issued by the International Bureau of the Permanent Court of Arbitration, have been translated and printed in full, with the references to the official reports where their texts appear. Without the complete text of a reservation it is impossible to know to what extent a Power is bound by a Convention or Declaration.

The Conventions and Declarations, as the case may be, of the two Conferences, are printed separately in the succeeding numbers of the pamphlets, accompanied by the respective lists of countries which have (a) *ratified*, or (b) *adhered to*, or (c) *signed but not ratified* them, with the date of the particular action taken. Each Convention or Declaration is followed also by the texts of reservations, as indicated above respecting the pamphlet containing the Tables of Signatures, Ratifications, etc. (No. 3). The English translations of the original French texts of the several Conventions, Declarations and Final Acts of the Conferences reproduce the official translations of the Department of State, except that a few obvious misprints, and an occasional mistranslation, have been corrected. Marginal notes have been added to facilitate reference.

Inasmuch as most of the Conventions and Declarations of the Conferences concerning war contain a clause to the effect that they only bind belligerents which have ratified them, and then only if all the belligerents are contracting Powers, there is appended a list of the countries now at war and the dates of the formal declarations or announcements of the existence of a state of war.

It should be noted that the Conventions and Declarations are not binding prior to the deposit of ratifications at The Hague. The mere signature of these conventional agreements may be regarded as the indication of an intention to ratify them, but creates no legal obligation. Adhesion has the effect of ratification. In this relation it is proper to remark that only the formal agreements of the Conferences—such as the Conventions and the signed Declarations—contemplate ratification. The informal agreements—such as the unsigned Declarations, Resolutions, Recommendations, and *Vœux*—are not signed separately. They are contained in the Final Act, which is an official summary of the proceedings of each Conference, and as such is signed.

A word should be said about the additional protocol to the Convention for an International Prize Court. It was not agreed upon at the Second Hague Conference, but was subsequently negotiated in order to remove objections to the Prize Court Convention. The signatures to it are indicated in the last column of the table of signatures of the Second Conference.

The Conventions and Declarations are numbered as in the Final Acts.

The official published proceedings of the First Conference are referred to in the footnotes as *Procès-verbaux*, those of the Second as *Actes et documents*. The full titles of the publications are respectively: (1) *Conférence internationale de la paix. La Haye, 18 mai–29 juillet, 1899. Ministère des affaires étrangères. Nouvelle édition. La Haye. Martinus Nijhoff, 1907*; (2) *Deuxième conférence internationale de la paix. La Haye, 15 juin–18 octobre, 1907. Actes et documents. Ministère des affaires étrangères. La Haye, imprimerie nationale, 1907.*

JAMES BROWN SCOTT,  
*Director of the Division of International Law.*

WASHINGTON, D. C.,  
December 23, 1914.



# THE HAGUE CONVENTIONS OF 1899 (I) AND 1907 (I) FOR THE PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES

1899

CONVENTION (I) for the pacific settlement of international disputes.—Signed at The Hague, July 29, 1899.

His Majesty the German Emperor, King of Prussia; [etc.] :

Animated by a strong desire to concert for the maintenance of the general peace;

Resolved to second by their best efforts the friendly settlement of international disputes;

Recognizing the solidarity which unites the members of the society of civilized nations;

Desirous of extending the empire of law and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a Court of Arbitration, accessible to all, in the midst of the independent Powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of arbitral procedure;

1907

CONVENTION (I) for the pacific settlement of international disputes.—Signed at The Hague, October 18, 1907.\*

His Majesty the German Emperor, King of Prussia; [etc.] :

Animated by the sincere desire to work for the maintenance of general peace;

Resolved to promote by all the efforts in their power the friendly settlement of international disputes;

Recognizing the solidarity uniting the members of the society of civilized nations;

Desirous of extending the empire of law and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a tribunal of arbitration, accessible to all, in the midst of independent Powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of the procedure of arbitration;

Purpose of  
Convention.

\*Italics indicate differences between the Conventions of 1899 and 1907.

1899

Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to record in an international agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

Plenipotentiaries.

Being desirous of concluding a Convention to this effect, have appointed as their plenipotentiaries, to wit:

[Here follow the names of plenipotentiaries.]

Who, after communication of their full powers, found in good and due form, have agreed on the following provisions:

Maintenance of general peace.

#### TITLE I.—ON THE MAINTENANCE OF THE GENERAL PEACE

##### ARTICLE 1

With a view to obviating, as far as possible, recourse to force in

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Sharing the opinion of the august initiator of the International Peace Conference that it is expedient to record in an international agreement the principles of equity and right on which are based the security of States and the welfare of peoples;

*Being desirous, with this object, of insuring the better working in practice of commissions of inquiry and tribunals of arbitration, and of facilitating recourse to arbitration in cases which allow of a summary procedure;*

*Have deemed it necessary to revise in certain particulars and to complete the work of the First Peace Conference for the pacific settlement of international disputes;*

*The high contracting Parties have resolved to conclude a new Convention for this purpose, and have appointed the following as their plenipotentiaries:*

[Here follow the names of plenipotentiaries.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following:

Peaceful settlement of differences.

#### PART I.—THE MAINTENANCE OF GENERAL PEACE

##### ARTICLE 1

With a view to obviating as far as possible recourse to force in the



1899

the relations between States, the signatory Powers agree to use their best efforts to insure the pacific settlement of international differences.

## TITLE II.—ON GOOD OFFICES AND MEDIATION

### ARTICLE 2

In case of serious disagreement or conflict, before an appeal to arms, the signatory Powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly Powers.

### ARTICLE 3

Independently of this recourse, the signatory Powers recommend that one or more Powers, strangers to the dispute, should, on their own initiative, and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers, strangers to the dispute, have the right to offer good offices or mediation, even during the course of hostilities.

The exercise of this right can never be regarded by one or the other of the parties in conflict as an unfriendly act.

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relations between States, the *contracting* Powers agree to use their best efforts to insure the pacific settlement of international differences.

## PART II.—GOOD OFFICES AND MEDIATION

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### ARTICLE 3

Independently of this recourse, the *contracting* Powers deem it expedient *and desirable* that one or more Powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the States at variance.

Powers strangers to the dispute have the right to offer good offices or mediation even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

Good offices  
and mediation.

Recourse to  
good offices of  
friendly Powers.

Offers of  
mediation.

During  
hostilities.

Not an  
unfriendly act.

1899

## ARTICLE 4

Function of  
mediator.

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the States at variance.

## ARTICLE 5

End of mediator's  
functions.

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute, or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

## ARTICLE 6

Not binding.

Good offices and mediation, either at the request of the parties at variance, or on the initiative of Powers strangers to the dispute, have exclusively the character of advice and never have binding force.

## ARTICLE 7

War measures  
not interrupted.

The acceptance of mediation can not, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If mediation occurs after the commencement of hostilities it causes no interruption to the military operations in progress, un-

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## ARTICLE 4

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Good offices and mediation undertaken either at the request of the parties in dispute or on the initiative of Powers strangers to the dispute have exclusively the character of advice, and never have binding force.

## ARTICLE 7

The acceptance of mediation can not, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted in the absence of

1899

less there be an agreement to the contrary.

## ARTICLE 8

The signatory Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:

In case of a serious difference endangering the peace, the States at variance choose respectively a Power, to whom they intrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, can not exceed thirty days, the States in conflict cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating Powers, who must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

## TITLE III.—ON INTERNATIONAL COMMISSIONS OF INQUIRY

## ARTICLE 9

In differences of an international nature involving neither

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an agreement to the contrary.

## ARTICLE 8

The *contracting* Powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:

In case of a serious difference endangering peace, the States at variance choose respectively a Power, to which they intrust the mission of entering into direct communication with the Power chosen on the other side, with the object of preventing the rupture of pacific relations.

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In case of a definite rupture of pacific relations, these Powers are charged with the joint task of taking advantage of any opportunity to restore peace.

## PART III.—INTERNATIONAL COMMISSIONS OF INQUIRY

## ARTICLE 9

In disputes of an international nature involving neither honor

Special mediation.

Choosing mediators.

Direct communication to cease between States in dispute.

Efforts to restore peace.

International commissions of inquiry.

Investigations of differences of opinion as to facts.

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honor nor vital interests, and arising from a difference of opinion on points of fact, the signatory Powers recommend that the parties, who have not been able to come to an agreement by means of diplomacy, should as far as circumstances allow, institute an international commission of inquiry, to facilitate a solution of these differences by elucidating the facts by means of an impartial and conscientious investigation.

## ARTICLE 10

Special  
agreements.

The international commissions of inquiry are constituted by special agreement between the parties in conflict.

Extent of  
commission's  
jurisdiction.

The convention for an inquiry defines the facts to be examined and the extent of the commissioners' powers.

It settles the procedure.

Meetings, etc.

On the inquiry both sides must be heard.<sup>1</sup>

The form and the periods to be observed, if not stated in the inquiry convention, are decided by the commission itself.

## 1907

nor vital interests, and arising from a difference of opinion on points of fact, the *contracting* Powers deem it expedient *and desirable* that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an international commission of inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

## ARTICLE 10

International commissions of inquiry are constituted by special agreement between the parties in dispute.

The inquiry convention defines the facts to be examined; *it determines the mode and time in which the commission is to be formed* and the extent of the powers of the commissioners.

*It also determines, if there is need, where the commission is to sit, and whether it may remove to another place, the language the commission shall use and the languages the use of which shall be authorized before it, as well as the date on which each party must deposit its statement of facts, and, generally speaking, all the conditions upon which the parties have agreed.*

<sup>1</sup>This provision appears in Article 19 of the 1907 Convention, *post*, p. 9.

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*If the parties consider it necessary to appoint assessors, the convention of inquiry shall determine the mode of their selection and the extent of their powers.* Assessors.

## ARTICLE 11

*If the inquiry convention has not determined where the commission is to sit, it will sit at The Hague.* Place of meeting, etc.

*The place of meeting, once fixed, can not be altered by the commission except with the assent of the parties.*

*If the inquiry convention has not determined what languages are to be employed, the question shall be decided by the commission.*

## ARTICLE 11

The international commissions of inquiry are formed, unless otherwise stipulated, in the manner fixed by Article 32 of the present convention.

## ARTICLE 12

Unless an undertaking is made to the contrary, commissions of inquiry shall be formed in the manner determined by Articles 45 and 57 of the present Convention. Formation.

## ARTICLE 13

*Should one of the commissioners or one of the assessors, should there be any, either die, or resign, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.* Filling vacancies.



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Special agents.

Counsel.

Assistance of  
International  
Bureau.

Registry.

Functions.

1907

## ARTICLE 14

*The parties are entitled to appoint special agents to attend the commission of inquiry, whose duty it is to represent them and to act as intermediaries between them and the commission.*

*They are further authorized to engage counsel or advocates, appointed by themselves, to state their case and uphold their interests before the commission.*

## ARTICLE 15

*The International Bureau of the Permanent Court of Arbitration acts as registry for the commissions which sit at The Hague, and shall place its offices and staff at the disposal of the contracting Powers for the use of the commission of inquiry.*

## ARTICLE 16

*If the commission meets elsewhere than at The Hague, it appoints a secretary general, whose office serves as registry.*

*It is the function of the registry, under the control of the president, to make the necessary arrangements for the sittings of the commission, the preparation of the minutes, and, while the inquiry lasts, for the charge of the archives, which shall subsequently be transferred to the International Bureau at The Hague.*



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## ARTICLE 17

*In order to facilitate the constitution and working of commissions of inquiry, the contracting Powers recommend the following rules, which shall be applicable to the inquiry procedure in so far as the parties do not adopt other rules.*

General rules of procedure.

## ARTICLE 18

*The commission shall settle the details of the procedure not covered by the special inquiry convention or the present Convention, and shall arrange all the formalities required for dealing with the evidence.*

Further details.

## ARTICLE 19

On the inquiry both sides must be heard.<sup>1</sup>

Hearings.

*At the dates fixed, each party communicates to the commission and to the other party the statements of facts, if any, and, in all cases, the instruments, papers, and documents which it considers useful for ascertaining the truth, as well as the list of witnesses and experts whose evidence it wishes to be heard.*

## ARTICLE 20

*The commission is entitled, with the assent of the Powers, to move temporarily to any place*

Change of meeting place.

<sup>1</sup>See Article 10 of the 1899 Convention, *ante*, p. 6.

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*where it considers it may be useful to have recourse to this means of inquiry or to send one or more of its members. Permission must be obtained from the State on whose territory it is proposed to hold the inquiry.*

## ARTICLE 21

*Every investigation, and every examination of a locality, must be made in the presence of the agents and counsel of the parties or after they have been duly summoned.*

## ARTICLE 22

*The commission is entitled to ask from either party for such explanations and information as it considers necessary.*

## ARTICLE 12

The Powers in dispute engage to supply the international commission of inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to be completely acquainted with and to accurately understand the facts in question.

## ARTICLE 23

The parties undertake to supply the commission of inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to become completely acquainted with, and to accurately understand, the facts in question.

*They undertake to make use of the means at their disposal, under their municipal law, to insure the appearance of the witnesses or experts who are in their territory and have been summoned before the commission.*

Presence at  
investigations.

Explanations,  
etc.

Presenting  
evidence.

Appearance  
of witnesses.

1899

1907

*If the witnesses or experts are unable to appear before the commission, the parties will arrange for their evidence to be taken before the qualified officials of their own country.*

Depositions.

## ARTICLE 24

*For all notices to be served by the commission in the territory of a third contracting Power, the commission shall apply direct to the Government of the said Power. The same rule applies in the case of steps being taken on the spot to procure evidence.*

Serving notice in other countries.

*The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They can not be rejected unless the Power in question considers they are calculated to impair its sovereign rights or its safety.*

*The commission will equally be always entitled to act through the Power on whose territory it sits.*

## ARTICLE 25

*The witnesses and experts are summoned on the request of the parties or by the commission of its own motion, and, in every case, through the Government of the State in whose territory they are.*

Summoning witnesses.

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Hearings.

Examination  
of witnesses.Restriction  
on witnesses.

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*The witnesses are heard in succession and separately, in the presence of the agents and counsel, and in the order fixed by the commission.*

## ARTICLE 26

*The examination of witnesses is conducted by the president.*

*The members of the commission may however put to each witness questions which they consider likely to throw light on and complete his evidence, or get information on any point concerning the witness within the limits of what is necessary in order to get at the truth.*

*The agents and counsel of the parties may not interrupt the witness when he is making his statement, nor put any direct question to him, but they may ask the president to put such additional questions to the witness as they think expedient.*

## ARTICLE 27

*The witness must give his evidence without being allowed to read any written draft. He may, however, be permitted by the president to consult notes or documents if the nature of the facts referred to necessitates their employment.*

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ARTICLE 28

*A minute of the evidence of the witness is drawn up forthwith and read to the witness. The latter may make such alterations and additions as he thinks necessary, which will be recorded at the end of his statement.*

Transcript  
of evidence.

*When the whole of his statement has been read to the witness, he is asked to sign it.*

ARTICLE 29

*The agents are authorized, in the course of or at the close of the inquiry, to present in writing to the commission and to the other party such statements, requisitions, or summaries of the facts as they consider useful for ascertaining the truth.*

Statements  
by agents.

ARTICLE 30

*The commission considers its decisions in private and the proceedings are secret.*

Decisions of  
commission.

*All questions are decided by a majority of the members of the commission.*

Majority  
to decide.

*If a member declines to vote, the fact must be recorded in the minutes.*

Record of  
declining  
to vote.

ARTICLE 31

*The sittings of the commission are not public, nor the minutes and documents connected with the inquiry published except in*

Sittings, etc.,  
not public.

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Termination  
of inquiry.

Report.

Reading  
of report.Effect  
of report.

The international commission of inquiry communicates its report to the conflicting Powers, signed by all the members of the commission.

The report of the international commission of inquiry is limited to a statement of facts, and has in no way the character of an arbitral award. It leaves the

1907

*virtue of a decision of the commission taken with the consent of the parties.*

## ARTICLE 32

*After the parties have presented all the explanations and evidence, and the witnesses have all been heard, the president declares the inquiry terminated, and the commission adjourns to deliberate and to draw up its report.*

## ARTICLE 33

The report is signed by all the members of the commission.

*If one of the members refuses to sign, the fact is mentioned; but the validity of the report is not affected.*

## ARTICLE 34

*The report of the commission is read at a public sitting, the agents and counsel of the parties being present or duly summoned.*

*A copy of the report is given to each party.*

## ARTICLE 14

## ARTICLE 35

The report of the commission is limited to a statement of facts, and has in no way the character of an award. It leaves to the parties entire freedom as to the



## 1899

conflicting Powers entire freedom as to the effect to be given to this statement.

## 1907

effect to be given to the statement.

## ARTICLE 36

*Each party pays its own expenses and an equal share of the expenses incurred by the commission.* Expenses.

## TITLE IV.—ON INTERNATIONAL ARBITRATION

CHAPTER I.—*On the System of Arbitration*

## ARTICLE 15

International arbitration has for its object the settlement of differences between States by judges of their own choice, and on the basis of respect for law.

## PART IV.—INTERNATIONAL ARBITRATION

CHAPTER I.—*The System of Arbitration* System.

## ARTICLE 37

International arbitration has for its object the settlement of disputes between States by judges of their own choice and on the basis of respect for law. Object.

Recourse to arbitration implies an engagement to submit in good faith to the award.<sup>1</sup> Submission to award.

## ARTICLE 16

In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the signatory Powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle.

## ARTICLE 38

In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the *contracting* Powers as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle. Recognition by Powers.

*Consequently, it would be de-* Recourse to its use.

<sup>1</sup>Cf. Article 18 of the 1899 Convention, *post*, p. 16.

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## ARTICLE 17

The arbitration convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

## ARTICLE 18

The arbitration convention implies the engagement to submit loyally to the award.<sup>1</sup>

## ARTICLE 19

Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the signatory Powers, these Powers reserve to themselves the right of concluding, either before the ratification of the present Act or later, new agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

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*sirable that, in disputes about the above-mentioned questions, the contracting Powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit.*

## ARTICLE 39

The arbitration convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

## ARTICLE 40

Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the *contracting* Powers, the said Powers reserve to themselves the right of concluding new agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it.

Questions to  
be considered.

Extension of  
principle  
reserved.

<sup>1</sup>Cf. Article 37, paragraph 2, of the 1907 Convention, *ante*, p. 15.

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CHAPTER II.—*On the Permanent Court of Arbitration*

## ARTICLE 20

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the signatory Powers undertake to organize a Permanent Court of Arbitration, accessible at all times and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

## ARTICLE 21

The Permanent Court shall be competent for all arbitration cases, unless the parties agree to institute a special tribunal.

## ARTICLE 22

An International Bureau, established at The Hague, serves as record office for the Court.

This Bureau is the channel for communications relative to the meetings of the Court.

It has the custody of the archives and conducts all the administrative business.

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CHAPTER II.—*The Permanent Court of Arbitration*

Permanent Court of Arbitration.

## ARTICLE 41

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the *contracting* Powers undertake to *maintain the* Permanent Court of Arbitration, *as established by the First Peace Conference*, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present Convention.

Maintenance agreed to.

## ARTICLE 42

The Permanent Court *is* competent for all arbitration cases, unless the parties agree to institute a special tribunal.

Authority.

## ARTICLE 43

The Permanent Court sits at The Hague.<sup>1</sup>

Location.

An International Bureau serves as registry for the Court. It is the channel for communications relative to the meetings of the Court; it has charge of the archives and conducts all the administrative business.

International Bureau.  
Purpose, etc.

<sup>1</sup>Cf. Article 25, paragraph 1, of the 1899 Convention, *post*, p. 21.

## 1899

Awards of  
special  
tribunals.

The signatory Powers undertake to communicate to the International Bureau at The Hague a duly certified copy of any conditions of arbitration arrived at between them, and of any award concerning them delivered by special tribunals.

Execution  
of awards.

They undertake also to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the awards given by the Court.

## ARTICLE 23

Selection  
of arbitrators.

Within the three months following its ratification of the present Act, each signatory Power shall select four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrators.

List of members.

The persons thus selected shall be inscribed, as members of the Court, in a list which shall be notified by the Bureau to all the signatory Powers.

Changes.

Any alteration in the list of arbitrators is brought by the Bureau to the knowledge of the signatory Powers.

Selection  
in common.

Two or more Powers may agree on the selection in common of one or more members.

The same person can be selected by different Powers.

## 1907

The *contracting* Powers undertake to communicate to the Bureau, *as soon as possible*, a certified copy of any conditions of arbitration arrived at between them and of any award concerning them delivered by a special tribunal.

They likewise undertake to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the awards given by the Court.

## ARTICLE 44

Each *contracting* Power *selects* four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrator.

The persons thus selected *are* inscribed, as members of the Court, in a list which shall be notified to all the *contracting* Powers by the Bureau.

Any alteration in the list of arbitrators is brought by the Bureau to the knowledge of the *contracting* Powers.

Two or more Powers may agree on the selection in common of one or more members.

The same person can be selected by different Powers.

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The members of the Court are appointed for a term of six years. Their appointments can be renewed.

In case of the death or retirement of a member of the Court, his place shall be filled in accordance with the method of his appointment.

## ARTICLE 24

When the signatory Powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the arbitrators called upon to form the competent tribunal to decide this difference must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the arbitration tribunal, the following course shall be pursued:

Each party appoints two arbitrators, and these together choose an umpire.

If the votes are equal, the choice of the umpire is intrusted to a third Power, selected by the parties by common accord.

## 1907

The members of the Court are appointed for a term of six years. These appointments are renewable.

Term of service.

Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. *In this case the appointment is made for a fresh period of six years.*

Vacancies.

## ARTICLE 45

When the *contracting* Powers wish to have recourse to the Permanent Court for the settlement of a difference which has arisen between them, the arbitrators called upon to form the tribunal with jurisdiction to decide this difference must be chosen from the general list of members of the Court.

Powers to choose tribunal.

Failing the direct agreement of the parties on the composition of the arbitration tribunal, the following course shall be pursued:

Failure of direct agreement.

Each party appoints two arbitrators, *of whom one only can be its national or chosen from among the persons selected by it as members of the Permanent Court.* These arbitrators together choose an umpire.

Appointment of separate arbitrators.

If the votes are equally divided, the choice of the umpire is intrusted to a third Power, selected by the parties by common accord.

Umpire.



## 1899

Selection by  
other Powers.

If an agreement is not arrived at on this subject, each party selects a different Power, and the choice of the umpire is made in concert by the Powers thus selected.

Determination  
of umpire  
in case of  
disagreement.

Notification  
to Bureau.

The tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court and the names of the arbitrators.

Notification  
to arbitrators.

Meeting of  
tribunal.

The tribunal of arbitration assembles on the date fixed by the parties.

Diplomatic  
privileges.

The members of the Court, in the discharge of their duties and out of their own country, enjoy diplomatic privileges and immunities.

## 1907

If an agreement is not arrived at on this subject each party selects a different Power, and the choice of the umpire is made in concert by the Powers thus selected.

*If, within two months' time, these two Powers can not come to an agreement, each of them presents two candidates taken from the list of members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be umpire.*

## ARTICLE 46

The tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court, *the text of their compromis*, and the names of the arbitrators.

*The Bureau communicates without delay to each arbitrator the compromis, and the names of the other members of the tribunal.*

The tribunal assembles at the date fixed by the parties. *The Bureau makes the necessary arrangements for the meeting.*

The members of the *tribunal*, in the exercise of their duties and out of their own country, enjoy diplomatic privileges and immunities.



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## ARTICLE 25

The tribunal of arbitration has its ordinary seat at The Hague.<sup>1</sup>

Except in cases of necessity, the place of session can only be altered by the tribunal with the assent of the parties.

## ARTICLE 26

The International Bureau at The Hague is authorized to place its premises and its staff at the disposal of the signatory Powers for the operations of any special board of arbitration.

The jurisdiction of the Permanent Court, may, within the conditions laid down in the regulations, be extended to disputes between non-signatory Powers, or between signatory Powers and non-signatory Powers, if the parties are agreed on recourse to this tribunal.

## ARTICLE 27

The signatory Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the conflicting parties of the provisions of the present Convention, and

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## ARTICLE 47

The Bureau is authorized to place its offices and staff at the disposal of the *contracting* Powers for the use of any special board of arbitration.

Use of Bureau for special boards.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between *non-contracting* Powers or between *contracting* Powers and *non-contracting* Powers, if the parties are agreed on recourse to this tribunal.

Extension to non-contracting Powers.

## ARTICLE 48

The *contracting* Powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Notifying disputants.

Consequently, they declare that the fact of reminding the parties at variance of the provisions of the present Convention, and the

Regarded as a friendly act.

<sup>1</sup>Cf. Article 43, paragraph 1, of the 1907 Convention, *ante*, p. 17.

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the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

Offer for  
arbitration.

Notice to  
other Power.

## ARTICLE 28

Administrative  
Council.

A Permanent Administrative Council, composed of the diplomatic representatives of the signatory Powers accredited to The Hague and of the Netherland Minister for Foreign Affairs, who will act as president, shall be instituted in this town as soon as possible after the ratification of the present Act by at least nine Powers.

This Council will be charged with the establishment and organization of the International Bureau, which will be under its direction and control.

It will notify to the Powers the constitution of the Court and will provide for its installation.

Functions.

It will settle its rules of procedure and all other necessary regulations.

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advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

*In case of dispute between two Powers, one of them can always address to the International Bureau a note containing a declaration that it would be ready to submit the dispute to arbitration.*

*The Bureau must at once inform the other Power of the declaration.*

## ARTICLE 49

The Permanent Administrative Council, composed of the diplomatic representatives of the *contracting* Powers accredited to The Hague and of the Netherland Minister for Foreign Affairs, who will act as president, is charged with the direction and control of the International Bureau.

The Council *settles* its rules of procedure and all other necessary regulations.

## 1899

It will decide all questions of administration which may arise with regard to the operations of the Court.

It will have entire control over the appointment, suspension or dismissal of the officials and employes of the Bureau.

It will fix the payments and salaries, and control the general expenditure.

At meetings duly summoned the presence of five members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the signatory Powers without delay the regulations adopted by it. It furnishes them with an annual report on the labors of the Court, the working of the administration, and the expenses.

## ARTICLE 29

The expenses of the Bureau shall be borne by the signatory Powers in the proportion fixed for the International Bureau of the Universal Postal Union.

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It *decides* all questions of administration which may arise with regard to the operations of the Court.

It *has* entire control over the appointment, suspension, or dismissal of the officials and employes of the Bureau.

It *fixes* the payments and salaries, and controls the general expenditure.

At meetings duly summoned the presence of *nine* members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes. Quorum, etc.

The Council communicates to the *contracting* Powers without delay the regulations adopted by it. It furnishes them with an annual report on the labors of the Court, the working of the administration, and the expenditure. *The report likewise contains a résumé of what is important in the documents communicated to the Bureau by the Powers in virtue of Article 43, paragraphs 3 and 4.* Regulations.  
Annual report.

## ARTICLE 50

The expenses of the Bureau shall be borne by the *contracting* Powers in the proportion fixed for the International Bureau of the Universal Postal Union. Expenses.

*The expenses to be charged to the adhering Powers shall be reck-*

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Procedure.

CHAPTER III.—*On Arbitral Procedure*

## ARTICLE 30

General rules.

With a view to encourage the development of arbitration, the signatory Powers have agreed on the following rules which shall be applicable to arbitral procedure, unless other rules have been agreed on by the parties.

## ARTICLE 31

Compromis.  
Contents.

The Powers who have recourse to arbitration sign a special act (compromis), in which the subject of the difference is clearly defined, as well as the extent of the arbitrators' powers. This act implies the undertaking of the parties to submit loyally to the award.<sup>1</sup>

Further  
conditions.

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*oned from the date on which their  
adhesion comes into force.*

CHAPTER III.—*Arbitration Procedure*

## ARTICLE 51

With a view to encouraging the development of arbitration, the *contracting* Powers have agreed on the following rules, which are applicable to arbitration procedure, unless other rules have been agreed on by the parties.

## ARTICLE 52

The Powers which have recourse to arbitration sign a compromis, in which the subject of the dispute is clearly defined, *the time allowed for appointing arbitrators, the form, order, and time in which the communication referred to in Article 63 must be made, and the amount of the sum which each party must deposit in advance to defray the expenses.*

*The compromis likewise defines, if there is occasion, the manner of appointing arbitrators, any special powers which may eventually belong to the tribunal, where it shall meet, the language it shall use, and the languages the employment of which shall be authorized before it, and, generally speaking, all the conditions on which the parties are agreed.*

<sup>1</sup>Cf. Article 37, paragraph 2, of the 1907 Convention, *ante*, p. 15.

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## ARTICLE 53

*The Permanent Court is competent to settle the compromis, if the parties are agreed to have recourse to it for the purpose.*

Settlement by  
Permanent  
Court.

*It is similarly competent, even if the request is only made by one of the parties, when all attempts to reach an understanding through the diplomatic channel have failed, in the case of—*

Requests by  
one Power.

*1. A dispute covered by a general treaty of arbitration concluded or renewed after the present Convention has come into force, and providing for a compromis in all disputes and not either explicitly or implicitly excluding the settlement of the compromis from the competence of the Court. Recourse can not, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration, unless the treaty of arbitration confers upon the arbitration tribunal the power of deciding this preliminary question.*

Disputes under  
arbitration  
treaties.

Exception.

*2. A dispute arising from contract debts claimed from one Power by another Power as due to its nationals, and for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condi-*

Contract debts.

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*tion that the compromis should be settled in some other way.*

## ARTICLE 54

*In the cases contemplated in the preceding article, the compromis shall be settled by a commission consisting of five members selected in the manner arranged for in Article 45, paragraphs 3 to 6.*

*The fifth member is president of the commission ex officio.*

## ARTICLE 32

## ARTICLE 55

Selection of  
commission.

Selection of  
arbitrators.

The duties of arbitrator may be conferred on one arbitrator alone or on several arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present Act.

The duties of arbitrator may be conferred on one arbitrator alone or on several arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present Convention.

Disagreements.

Failing the constitution of the tribunal by direct agreement between the parties, the following course shall be pursued:

Failing the constitution of the tribunal by direct agreement between the parties, the course *referred to in Article 45, paragraphs 3 to 6, is followed.*

Each party appoints two arbitrators, and these latter together choose an umpire.

In case of equal voting, the choice of the umpire is intrusted to a third Power, selected by the parties by common accord.

If no agreement is arrived at on this subject, each party selects a different Power, and the choice of the umpire is made in concert by the Powers thus selected.



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## ARTICLE 33

When a sovereign or the chief of a State is chosen as arbitrator, the arbitral procedure is settled by him.

## ARTICLE 34

The umpire is by right president of the tribunal.

When the tribunal does not include an umpire, it appoints its own president.

## ARTICLE 35

In case of the death, retirement, or disability from any cause of one of the arbitrators, his place shall be filled in accordance with the method of his appointment.

## ARTICLE 36

The tribunal's place of session is selected by the parties. Failing this selection the tribunal sits at The Hague.

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## ARTICLE 56

When a sovereign or the chief of a State is chosen as arbitrator, the arbitration procedure is settled by him.

Arbitration by a sovereign, etc

## ARTICLE 57

The umpire is president of the tribunal ex officio.

President of tribunal.

When the tribunal does not include an umpire, it appoints its own president.

## ARTICLE 58

*When the compromis is settled by a commission, as contemplated in Article 54, and in the absence of an agreement to the contrary, the commission itself shall form the arbitration tribunal.*

Tribunal formed by commission.

## ARTICLE 59

Should one of the arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

Vacancies.

## ARTICLE 60

The tribunal sits at The Hague, unless some other place is selected by the parties.

Sessions.

*The tribunal can only sit in the territory of a third Power with the latter's consent.*

## 1899

The place thus fixed can not, except in case of necessity, be changed by the tribunal without the assent of the parties.

Selection  
of language.

## ARTICLE 37

Agents.

The parties have the right to appoint delegates or special agents to attend the tribunal, for the purpose of serving as intermediaries between them and the tribunal.

Counsel.

They are further authorized to retain, for the defense of their rights and interests before the tribunal, counsel or advocates appointed by them for this purpose.

Restriction on  
members of  
Permanent  
Court.

## ARTICLE 38

The tribunal decides on the choice of languages to be used by itself, and to be authorized for use before it.<sup>2</sup>

## 1907

The place of meeting once fixed can not be altered by the tribunal, except with the consent of the parties.

## ARTICLE 61

*If the question as to what languages are to be used has not been settled by the compromis, it shall be decided by the tribunal.<sup>1</sup>*

## ARTICLE 62

The parties are entitled to appoint special agents to attend the tribunal to act as intermediaries between themselves and the tribunal.

They are further authorized to retain for the defence of their rights and interests before the tribunal counsel or advocates appointed by themselves for this purpose.

*The members of the Permanent Court may not act as agents, counsel, or advocates except on behalf of the Power which appointed them members of the Court.*

<sup>1</sup>Cf. Article 38 of the 1899 Convention, below.

<sup>2</sup>Cf. Article 61 of the 1907 Convention, above.

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## ARTICLE 39

As a general rule the arbitral procedure comprises two distinct phases: preliminary examination and discussion.

Preliminary examination consists in the communication by the respective agents to the members of the tribunal and to the opposite party of all printed or written acts and of all documents containing the arguments invoked in the case. This communication shall be made in the form and within the periods fixed by the tribunal in accordance with Article 49.

Discussion consists in the oral development before the tribunal of the arguments of the parties.

## ARTICLE 40.

Every document produced by one party must be communicated to the other party.

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## ARTICLE 63

As a general rule, arbitration procedure comprises two distinct phases: pleadings and oral discussions.

The pleadings consist in the communication by the respective agents to the members of the tribunal and the opposite party of *cascs, counter-cases, and, if necessary, of replicas; the parties annex thereto all papers and documents called for in the case.* This communication shall be made *either directly or through the intermediary of the International Bureau, in the order and within the time fixed by the compromis.*

*The time fixed by the compromis may be extended by mutual agreement by the parties, or by the tribunal when the latter considers it necessary for the purpose of reaching a just decision.*

The discussions consist in the oral development before the tribunal of the arguments of the parties.

## ARTICLE 64

A *certified copy* of every document produced by one party must be communicated to the other party.

Procedure.

Pleadings.

Extension  
of time.Oral  
discussions.Exchange of  
documents.

## 1899

Meeting of  
tribunal.

## ARTICLE 41

Discussions.

The discussions are under the direction of the president.

Public.

They are only public if it be so decided by the tribunal, with the assent of the parties.

Record.

They are recorded in the procès-verbaux drawn up by the secretaries appointed by the president. These procès-verbaux alone have an authentic character.

## ARTICLE 42

Limiting  
discussions.

When the preliminary examination is concluded, the tribunal has the right to refuse discussion of all fresh acts or documents which one party may desire to submit to it without the consent of the other party.

## ARTICLE 43

Admission of  
new evidence.

The tribunal is free to take into consideration fresh acts or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the tribunal has the right to require the production of these acts or documents,

## 1907

## ARTICLE 65

*Unless special circumstances arise, the tribunal does not meet until the pleadings are closed.*

## ARTICLE 66

The discussions are under the control of the president.

They are only public if it be so decided by the tribunal, with the assent of the parties.

They are recorded in minutes drawn up by the secretaries appointed by the president. These minutes *are signed by the president and by one of the secretaries and* alone have an authentic character.

## ARTICLE 67

After the close of the pleadings, the tribunal is entitled to refuse discussion of all new papers or documents which one of the parties may wish to submit to it without the consent of the other party.

## ARTICLE 68

The tribunal is free to take into consideration new papers or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the tribunal has the right to require the production of these papers or documents, but

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but is obliged to make them known to the opposite party.

## ARTICLE 44

The tribunal can, besides, require from the agents of the parties the production of all acts, and can demand all necessary explanations. In case of refusal, the tribunal takes note of it.

## ARTICLE 45

The agents and counsel of the parties are authorized to present orally to the tribunal all the arguments they may think expedient in defense of their case.

## ARTICLE 46

They have the right to raise objections and points. The decisions of the tribunal on those points are final, and can not form the subject of any subsequent discussion.

## ARTICLE 47

The members of the tribunal have the right to put questions to the agents and counsel of the parties, and to demand explanations from them on doubtful points.

Neither the questions put nor the remarks made by members of the tribunal during the discussions can be regarded as an expression of opinion by the tri-

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is obliged to make them known to the opposite party.

## ARTICLE 69

The tribunal can, besides, require from the agents of the parties the production of all papers, and can demand all necessary explanations. In case of refusal the tribunal takes note of it.

Production  
of all papers.

## ARTICLE 70

The agents and the counsel of the parties are authorized to present orally to the tribunal all the arguments they may consider expedient in defense of their case.

Oral arguments.

## ARTICLE 71

They are entitled to raise objections and points. The decisions of the tribunal on these points are final and can not form the subject of any subsequent discussion.

Decisions final.

## ARTICLE 72

The members of the tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by members of the tribunal in the course of the discussions, can be regarded as an expression of opinion by the

Questions  
by arbitrators.

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bunal in general, or by its members in particular.

## ARTICLE 48

Competence  
of tribunal.

The tribunal is authorized to declare its competence in interpreting the compromis as well as the other treaties which may be invoked in the case, and in applying the principles of international law.

## ARTICLE 49

Special rules.

The tribunal has the right to issue rules of procedure for the conduct of the case, to decide the forms and periods within which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

Information to  
be furnished.

Serving notice in  
other countries.

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tribunal in general or by its members in particular.

## ARTICLE 73

The tribunal is authorized to declare its competence in interpreting the compromis, as well as the other *papers and documents* which may be invoked, and in applying the principles of law.

## ARTICLE 74

The tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms, *order*, and time in which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

## ARTICLE 75

*The parties undertake to supply the tribunal, as fully as they consider possible, with all the information required for deciding the case.*

## ARTICLE 76

*For all notices which the tribunal has to serve in the territory of a third contracting Power, the tribunal shall apply direct to the Government of that Power. The same rule applies in the case of steps being taken to procure evidence on the spot.*



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## ARTICLE 50

When the agents and counsel of the parties have submitted all explanations and evidence in support of their case, the president pronounces the discussion closed.

## ARTICLE 51

The deliberations of the tribunal take place in private. Every decision is taken by a majority of members of the tribunal.

The refusal of a member to vote must be recorded in the procès-verbal.

## ARTICLE 52

The award, given by a majority of votes, is accompanied by a statement of reasons. It is drawn up in writing and signed by each member of the tribunal.

Those members who are in the

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*The requests for this purpose are to be executed as far as the means at the disposal of the Power applied to under its municipal law allow. They can not be rejected unless the Power in question considers them calculated to impair its own sovereign rights or its safety.*

Executing requests.

*The Court will equally be always entitled to act through the Power on whose territory it sits.*

## ARTICLE 77

When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case the president shall declare the discussion closed.

Close of discussions.

## ARTICLE 78

The tribunal considers its decisions in private and *the proceedings remain secret.*

Deliberations private.

All questions are decided by a majority of the members of the tribunal.

Majority to decide.

## ARTICLE 79

The award must give the reasons on which it is based. *It contains the names of the arbitrators; it is signed by the president and registrar or by the secretary acting as registrar.*

Statement of award.

## 1899

minority may record their dissent when signing.

## ARTICLE 53

Announcement.

The award is read out at a public meeting of the tribunal, the agents and counsel of the parties being present, or duly summoned to attend.

## ARTICLE 54

Finality.

The award, duly pronounced and notified to the agents of the parties at variance, puts an end to the dispute definitively and without appeal.

Disputes as to interpretation.

## ARTICLE 55

Right of revision.

The parties can reserve in the compromis the right to demand the revision of the award.

Grounds for demand.

In this case, and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence on the award, and

## 1907

## ARTICLE 80

The award is read out in public sitting, the agents and counsel of the parties being present or duly summoned to attend.

## ARTICLE 81

The award, duly pronounced and notified to the agents of the parties, settles the dispute definitively and without appeal.

## ARTICLE 82

*Any dispute arising between the parties as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the tribunal which pronounced it.*

## ARTICLE 83

The parties can reserve in the compromis the right to demand the revision of the award.

In this case and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence upon the award and which was unknown to the tri-

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which, at the time the discussion was closed, was unknown to the tribunal and to the party demanding the revision.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character described in the foregoing paragraph, and declaring the demand admissible on this ground.

The compromis fixes the period within which the demand for revision must be made.

## ARTICLE 56

The award is only binding on the parties who concluded the compromis.

When there is a question of interpreting a Convention to which Powers other than those concerned in the dispute are parties, the latter notify to the former the compromis they have concluded. Each of these Powers has the right to intervene in the case. If one or more of them avail themselves of this right, the interpretation contained in the award is equally binding on them.

## ARTICLE 57

Each party pays its own expenses and an equal share of those of the tribunal.

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bunal and to the party which demanded the revision at the time the discussion was closed.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The compromis fixes the period within which the demand for revision must be made.

## ARTICLE 84

The award is not binding except on the parties *in dispute*.

When it concerns the interpretation of a Convention to which Powers other than those in dispute are parties, they shall inform all the signatory Powers *in good time*. Each of these Powers is entitled to intervene in the case. If one or more avail themselves of this right, the interpretation contained in the award is equally binding on them.

## ARTICLE 85

Each party pays its own expenses and an equal share of the expenses of the tribunal.

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Summary  
arbitration.

Rules for sum-  
mary procedure.

Arbitrators  
and umpire.

Submission  
of cases.

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# CHAPTER IV.—*Arbitration by Summary Procedure*

## ARTICLE 86

*With a view to facilitating the working of the system of arbitration in disputes admitting of a summary procedure, the Contracting Powers adopt the following rules, which shall be observed in the absence of other arrangements and subject to the reservation that the provisions of Chapter III apply so far as may be.*

## ARTICLE 87

*Each of the parties in dispute appoints an arbitrator. The two arbitrators thus selected choose an umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the umpire is determined by lot.*

*The umpire presides over the tribunal, which gives its decisions by a majority of votes.*

## ARTICLE 88

*In the absence of any previous agreement the tribunal, as soon as it is formed, settles the time with-*

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*in which the two parties must submit their respective cases to it.*

## ARTICLE 89

*Each party is represented before the tribunal by an agent, who serves as intermediary between the tribunal and the Government who appointed him.*

Agents.

## ARTICLE 90

*The proceedings are conducted exclusively in writing. Each party, however, is entitled to ask that witnesses and experts should be called. The tribunal has, for its part, the right to demand oral explanations from the agents of the two parties, as well as from the experts and witnesses whose appearance in Court it may consider useful.*

Proceedings to be in writing.

Oral explanations.

## GENERAL PROVISIONS

## PART V.—FINAL PROVISIONS

Final provisions.

## ARTICLE 91

*The present Convention, duly ratified, shall replace, as between the contracting Powers, the Convention for the pacific settlement of international disputes of the 29th July, 1899.*

Former Convention replaced.

## ARTICLE 58

The present Convention shall be ratified as speedily as possible.

The ratifications shall be deposited at The Hague.

## ARTICLE 92

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

Ratification.

Deposit at The Hague.

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A procès-verbal shall be drawn up recording the receipt of each ratification, and a copy duly certified shall be sent, through the diplomatic channel, to all the Powers who were represented at the International Peace Conference at The Hague.

Certified copies  
to Powers.

## ARTICLE 59

The non-signatory Powers who were represented at the International Peace Conference can adhere to the present Convention. For this purpose they must make known their adhesion to the con-

Non-signatory  
Powers may  
adhere.

Notification  
of intent.

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*The first deposit of ratifications shall be recorded in a procès-verbal signed by the representatives of the Powers which take part therein and by the Netherland Minister for Foreign Affairs.*

*The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.*

*A duly certified copy of the procès-verbal relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent by the Netherland Government, through the diplomatic channel, to the Powers invited to the Second Peace Conference, as well as to those Powers which have adhered to the Convention. In the cases contemplated in the preceding paragraph, the said Government shall at the same time inform the Powers of the date on which it received the notification.*

## ARTICLE 93

Non-signatory Powers which have been invited to the Second Peace Conference may adhere to the present Convention.

*The Power which desires to adhere notifies its intention in writ-*



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tracting Powers by a written notification addressed to the Netherlands Government, and communicated by it to all the other contracting Powers.

ARTICLE 60<sup>1</sup>

The conditions on which the Powers who were not represented at the International Peace Conference can adhere to the present Convention shall form the subject of a subsequent agreement among the contracting Powers.

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*ing to the Netherlands Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said Government.*

*This Government shall immediately forward to all the other Powers invited to the Second Peace Conference a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.*

Communication  
to other  
Powers.

## ARTICLE 94

The conditions on which the Powers which have not been invited to the Second Peace Conference may adhere to the present Convention shall form the subject of a subsequent agreement between the contracting Powers.

Adherence by  
other Powers.

## ARTICLE 95

*The present Convention shall take effect, in the case of the Powers which were not a party to the first deposit of ratifications, sixty days after the date of the procès-verbal of this deposit, and, in the case of the Powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their*

Effect of  
ratification

<sup>1</sup>A protocol establishing, as regards the Powers unrepresented at the First Conference, the mode of adhesion to this Convention, was signed at The Hague June 14, 1907, by representatives of all the Powers represented at the 1899 Conference.

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## ARTICLE 61

Denunciation.

In the event of one of the high contracting Parties denouncing the present Convention, this denunciation would not take effect until a year after its notification made in writing to the Netherlands Government, and by it communicated at once to all the other contracting Powers.

Notifying  
Power only  
affected.

This denunciation shall only affect the notifying Power.

Register of  
ratifications.

Signing.

In faith of which the plenipotentiaries have signed the present

1907

*adhesion has been received by the Netherlands Government.*

## ARTICLE 96

In the event of one of the contracting Powers wishing to denounce the present Convention, the denunciation shall be notified in writing to the Netherlands Government, which shall immediately communicate a duly certified copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying Power, and one year after the notification has reached the Netherlands Government.

## ARTICLE 97

*A register kept by the Netherlands Minister for Foreign Affairs shall give the date of the deposit of ratifications effected in virtue of Article 92, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article 93, paragraph 2) or of denunciation (Article 96, paragraph 1) have been received.*

*Each contracting Power is entitled to have access to this register and to be supplied with duly certified extracts from it.*

In faith whereof the plenipotentiaries have appended their

## 1899

Convention and affixed their seals to it.

Done at The Hague, the 29th July, 1899, in a single copy, which shall remain in the archives of the Netherland Government, and copies of it, duly certified, be sent through the diplomatic channel to the contracting Powers.

[Here follow signatures.]

## 1907

*signatures to the present Convention.*

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the contracting Powers.

[Here follow signatures.]

Deposit  
of original.

Certified copies  
to Powers.

#### RATIFICATIONS, ADHESIONS AND RESERVATIONS

The 1899 Convention was *ratified* by all the signatory Powers on the dates indicated:

|                 |                           |
|-----------------|---------------------------|
| Austria-Hungary | September 4, 1900         |
| Belgium         | September 4, 1900         |
| Bulgaria        | September 4, 1900         |
| China           | November 21, 1904         |
| Denmark         | September 4, 1900         |
| France          | September 4, 1900         |
| Germany         | September 4, 1900         |
| Great Britain   | September 4, 1900         |
| Greece          | April 4, 1901             |
| Italy           | September 4, 1900         |
| Japan           | October 6, 1900           |
| Luxemburg       | July 12, 1901             |
| Mexico          | April 17, 1901            |
| Montenegro      | October 16, 1900          |
| Netherlands     | September 4, 1900         |
| Norway          | ( See Sweden and Norway.) |
| Persia          | September 4, 1900         |
| Portugal        | September 4, 1900         |
| Roumania        | September 4, 1900         |
| Russia          | September 4, 1900         |
| Servia          | May 11, 1901              |

|                         |                   |
|-------------------------|-------------------|
| Siam .....              | September 4, 1900 |
| Spain .....             | September 4, 1900 |
| Sweden and Norway ..... | September 4, 1900 |
| Switzerland .....       | December 29, 1900 |
| Turkey .....            | June 12, 1907     |
| United States .....     | September 4, 1900 |

*Adhesions:*

|                          |               |
|--------------------------|---------------|
| Argentine Republic ..... | June 15, 1907 |
| Bolivia .....            | June 15, 1907 |
| Brazil .....             | June 15, 1907 |
| Chile .....              | June 15, 1907 |
| Colombia .....           | June 15, 1907 |
| Cuba .....               | June 15, 1907 |
| Dominican Republic ..... | June 15, 1907 |
| Ecuador .....            | July 3, 1907  |
| Guatemala .....          | June 15, 1907 |
| Haiti .....              | June 15, 1907 |
| Nicaragua .....          | June 15, 1907 |
| Panama .....             | June 15, 1907 |
| Paraguay .....           | June 15, 1907 |
| Peru .....               | June 15, 1907 |
| Salvador .....           | June 20, 1907 |
| Uruguay .....            | June 17, 1907 |
| Venezuela .....          | June 15, 1907 |

*Reservations:*<sup>1</sup>

Roumania

Under the reservations formulated with respect to Articles 16, 17 and 19 of the present Convention (15, 16 and 18 of the project presented by the committee on examination), and recorded in the *procès-verbal* of the sitting of the Third Commission of July 20, 1899.<sup>2</sup>

*Extract from the procès-verbal:*

The Royal Government of Roumania being completely in favor of the principle of *facultative* arbitration, of which it appreciates the great importance in international relations, neverthe-

<sup>1</sup>All these reservations were made at signature.

<sup>2</sup>Reservations maintained at ratification.

less does not intend to undertake, by Article 15, an engagement to accept arbitration in every case there provided for, and it believes it ought to form express reservations in that respect.

It can not therefore vote for this article, except under that reservation.

The Royal Government of Roumania declares that it can not adhere to Article 16 except with the express reservation, entered in the *procès-verbal*, that it has decided not to accept, in any case, an international arbitration for disagreements or disputes previous to the conclusion of the present Convention.

The Royal Government of Roumania declares that in adhering to Article 18 of the Convention, it makes no engagement in regard to obligatory arbitration.<sup>1</sup>

### Servia

Under the reservations recorded in the *procès-verbal* of the Third Commission of July 20, 1899.<sup>2</sup>

#### *Extract from the procès-verbal:*

In the name of the Royal Government of Servia, we have the honor to declare that our adoption of the principle of good offices and mediation does not imply a recognition of the right of third States to use these means except with the extreme reserve which proceedings of this delicate nature require.

We do not admit good offices and mediation except on condition that their character of purely friendly counsel is maintained fully and completely, and we never could accept them in forms and circumstances such as to impress upon them the character of intervention.<sup>3</sup>

### Turkey

Under reservation of the declaration made in the plenary sitting of the Conference of July 25, 1899.

#### *Extract from the procès-verbal:*

The Turkish delegation, considering that the work of this Conference has been a work of high loyalty and humanity, destined solely to assure general peace by safeguarding the interests and the rights of each one, declares, in the name of its Government, that it adheres to the project just adopted, on the following conditions:

1. It is formally understood that recourse to good offices and mediation, to commissions of inquiry and arbitration is

<sup>1</sup>Declaration of Mr. Beldiman. *Procès-verbaux*, pt. iv, p. 48.

<sup>2</sup>Reservations maintained at ratification.

<sup>3</sup>Declaration of Mr. Miyatovitch. *Procès-verbaux*, pt. iv, p. 47.

purely facultative and could not in any case assume an obligatory character or degenerate into interventions;

2. The Imperial Government itself will be the judge of the cases where its interests would permit it to admit these methods without its abstention or refusal to have recourse to them being considered by the signatory States as an unfriendly act.

It goes without saying that in no case could the means in question be applied to questions concerning interior regulation.<sup>1</sup>

#### United States

Under reservation of the declaration made at the plenary sitting of the Conference on the 25th of July, 1899.<sup>2</sup>

*Extract from the procès-verbal:*

The delegation of the United States of America on signing the Convention for the pacific settlement of international disputes, as proposed by the International Peace Conference, makes the following declaration:

Nothing contained in this Convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions or policy or internal administration of any foreign State; nor shall anything contained in the said Convention be construed to imply a relinquishment by the United States of America of its traditional attitude toward purely American questions.<sup>3</sup>

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**The 1907 Convention** was *ratified* by the following signatory Powers on the dates indicated:

|                       |                   |
|-----------------------|-------------------|
| Austria-Hungary ..... | November 27, 1909 |
| Belgium .....         | August 8, 1910    |
| Bolivia .....         | November 27, 1909 |
| Brazil .....          | January 5, 1914   |
| China .....           | November 27, 1909 |
| Cuba .....            | February 22, 1912 |
| Denmark .....         | November 27, 1909 |
| * France .....        | October 7, 1910   |

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<sup>1</sup>Declaration of Turkhan Pasha. *Procès-verbaux*, pt. i, p. 70. This reservation does not appear in the instrument of ratification.

<sup>2</sup>Reservation maintained at ratification.

<sup>3</sup>*Procès-verbaux*, pt. i, p. 69. Compare the reservation of the United States to the 1907 Convention, *post*, p. 47.



|                    |                    |
|--------------------|--------------------|
| Germany .....      | November 27, 1909  |
| Guatemala .....    | March 15, 1911     |
| Haiti .....        | February 2, 1910   |
| Japan .....        | December 13, 1911  |
| Luxemburg .....    | September 5, 1912  |
| Mexico .....       | November 27, 1909  |
| Netherlands .....  | November 27, 1909  |
| Norway .....       | September 19, 1910 |
| Panama .....       | September 11, 1911 |
| Portugal .....     | April 13, 1911     |
| Roumania .....     | March 1, 1912      |
| Russia .....       | November 27, 1909  |
| Salvador .....     | November 27, 1909  |
| Siam .....         | March 12, 1910     |
| Spain .....        | March 18, 1913     |
| Sweden .....       | November 27, 1909  |
| Switzerland .....  | May 12, 1910       |
| United States..... | November 27, 1909  |

*Adhesion:*

|                 |                   |
|-----------------|-------------------|
| Nicaragua ..... | December 16, 1909 |
|-----------------|-------------------|

The following Powers signed the Convention but have not yet ratified:

|                    |            |
|--------------------|------------|
| Argentine Republic | Montenegro |
| Bulgaria           | Paraguay   |
| Chile              | Persia     |
| Colombia           | Peru       |
| Dominican Republic | Servia     |
| Ecuador            | Turkey     |
| Great Britain      | Uruguay    |
| Greece             | Venezuela  |
| Italy              |            |

*Reservations:*<sup>1</sup>

Brazil

With reservation as to Article 53 paragraphs 2, 3, and 4.<sup>2</sup>

<sup>1</sup>All these reservations were made at signature except the second reservation of the United States.

<sup>2</sup>Reservation maintained at ratification.

## Chile

Under reservation of the declaration formulated with regard to Article 39 in the seventh meeting of the First Commission on October 7.

*Extract from the procès-verbal:*

The delegation of Chile desires to make the following declaration in the name of its Government with respect to this article. Our delegation at the time of signing the Convention of 1899 for the pacific settlement of international disputes did so with the reservation that the adhesion of its Government as regards Article 17 would not include controversies or questions prior to the celebration of the Convention.

The delegation of Chile believes it to be its duty to-day to renew, with respect to the same provision, the reservation that it has previously made, although it may not be strictly necessary in view of the similar character of the provision.<sup>1</sup>

## Greece

With the reservation of paragraph 2 of Article 53.

## Japan

With reservation of paragraphs 3 and 4 of Article 48, of paragraph 2 of Article 53 and of Article 54.<sup>2</sup>

## Roumania

With the same reservations formulated by the Roumanian plenipotentiaries on signing the Convention for the pacific settlement of international disputes of July 29, 1899.<sup>3</sup>

## Switzerland

Under reservation of Article 53, number 2.<sup>2</sup>

## Turkey

Under reservation of the declarations recorded in the *procès-verbal* of the ninth plenary session of the Conference held on October 16, 1907.

*Extract from the procès-verbal:*

The Ottoman delegation declares, in the name of its Government, that while it is not unmindful of the beneficent influence

<sup>1</sup>Statement of Mr. Domingo Gana. *Actes et documents*, vol. ii, p. 121.

<sup>2</sup>Reservation maintained at ratification.

<sup>3</sup>Reservations maintained at ratification. See *ante*, p. 42.

which good offices, mediation, commissions of inquiry and arbitration are able to exercise on the maintenance of the pacific relations between States, in giving its adhesion to the whole of the draft, it does so on the understanding that such methods remain, as before, purely optional; it could in no case recognize them as having an obligatory character rendering them susceptible of leading directly or indirectly to an intervention.

The Imperial Government proposes to remain the sole judge of the occasions when it shall be necessary to have recourse to the different proceedings or to accept them without its determination on the point being liable to be viewed by the signatory States as an unfriendly act.

It is unnecessary to add that such methods should never be applied in cases of internal order.<sup>1</sup>

### United States

Under reservation of the declaration made in the plenary session of the Conference held on October 16, 1907.<sup>2</sup>

*Extract from the procès-verbal:*

The delegation of the United States renews the reservation made in 1899 on the subject of Article 48 of the Convention for the pacific settlement of international disputes in the form of the following declaration:

Nothing contained in this Convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign State; nor shall anything contained in the said Convention be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions.<sup>3</sup>

The act of ratification contains the following reservation:

That the United States approves this Convention with the understanding that recourse to the Permanent Court for the settlement of differences can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute; and the United States now exercises the option contained in Article 53 of said Convention, to exclude the formulation of the *compromis* by the Permanent Court, and hereby excludes from the competence of the Permanent Court the power to frame the *compromis* re-

<sup>1</sup>Statements of Turkhan Pasha. *Actes et documents*, vol. i, p. 336.

<sup>2</sup>Reservation maintained at ratification.

<sup>3</sup>Statement of Mr. David Jayne Hill. *Actes et documents*, vol. i, p. 335.

quired by general or special treaties of arbitration concluded or hereafter to be concluded by the United States, and further expressly declares that the *compromis* required by any treaty of arbitration to which the United States may be a party shall be settled only by agreement between the contracting parties, unless such treaty shall expressly provide otherwise.



